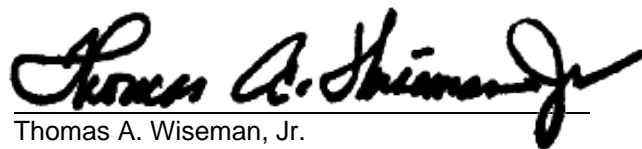


For the reasons set forth in the accompanying Memorandum Opinion, the Court finds that subject-matter jurisdiction lies in this Court; Plaintiff's motion to remand is therefore **DENIED**. With respect to Prudential's motion for judgment, the Court finds that Plaintiff's state-law claims are completely preempted by ERISA and should be recast as a claim for benefits under an ERISA plan. Plaintiff has not shown that she can succeed on the merits of her claim against Prudential, however. Prudential's motion

for judgment is therefore **GRANTED**. The Hospital's motion to dismiss is **GRANTED IN PART AND DENIED IN PART**. Specifically, the claims against the Hospital are likewise preempted by ERISA. The negligence claim, even though recast as a claim for benefits under ERISA, fails for the same reasons as the claim against the hospital. The motion to dismiss that claim will be **GRANTED** and the negligence claim **DISMISSED**. Plaintiff's state-law claim for breach of fiduciary duty is preempted by ERISA but shall be construed as a claim under ERISA for breach of fiduciary duty. As set forth in the accompanying Memorandum Opinion, the Court finds that Plaintiff has successfully stated a claim under ERISA for breach of fiduciary duty; the motion to dismiss is **DENIED** insofar as it seeks dismissal of that claim.

It is so **ORDERED**. The case is remanded back to the magistrate judge for further case management as may be necessary.

A handwritten signature in black ink, reading "Thomas A. Wiseman, Jr.", written over a horizontal line.

Thomas A. Wiseman, Jr.
Senior U.S. District Judge